

REMARKS

Reconsideration of the subject application in view of the present amendment is respectfully requested.

By the present amendment, claims 1, 6, 7, and 25 have been amended.

Based on the foregoing amendments and the following remarks, the application is deemed to be in condition for allowance and action to that end is respectfully requested.

The Examiner rejected claims 1-12, 17 and 19-26 under 35 U.S.C. § 102(b) as being anticipated by Spies, U.S. Patent No. 4,612,502 (Spies). It is respectfully submitted that all of claims 1-26, now under consideration, are patentable over Spies.

Specifically, claim 1 recites a measuring graduation having a permanently magnetized base body extending in a measuring direction and having first and second sections alternately arranged one after another in the measuring direction and having, respectively, first and second magnetization directions. The second sections of the base body are formed by magnetically weak regions. Claim 1 further recites that the second magnetization direction of the second sections is defined by the first magnetization direction of adjacent first sections.

The present invention is directed to simplifying the construction and, thereby, the manufacturing of measuring graduations having a permanently magnetized base body extending in a measuring direction and having first and second sections alternately arranged one after another in the measuring direction and having, respectively, first and second magnetization directions.

Applicants have found out that by forming the second sections by magnetically weak regions, and with the second magnetization direction of the second sections being defined by the first magnetization direction of adjacent first sections, the structure of the measuring graduation is substantially simplified.

Spies relates to a completely different measuring graduation and, therefore, is not believed to be particularly relevant to the present invention. In Spies, the base body (scale 2) is formed of a magnetically conducting material (column 2, line 65), i.e., it is not permanently magnetized and becomes magnetized when subjected to an external magnetic field. To this end the scanning unit is provided with a permanent magnet (8). The sensor means scans the base body (scale 2), determining the magnetic induction along the base body (scale 2). The sensor means is located in space between the permanent magnet (8) and the scale (2), with the magnetic field, which is

that 35 U.S.C. § 102 requires no less than “complete anticipation . . . [a]nticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim.” Connell v. Sears, Roebuck & Co., 220 U.S.P.Q. 193, 198 (Fed. Cir. 1983); See also, Electro Medical Systems, 32 U.S.P.Q. 2d at 1019; Verdegaal Bros., 2 U.S.P.Q. 2d at 1053.

Since Spies fails to disclose each and every feature of independent claim 1, Spies, as a matter of law, does not anticipate the present invention, as defined by said independent claim.

In view of the above, it is respectfully submitted that Spies does not anticipate or make obvious the present invention as defined in claim 1, and the present invention is patentable over Spies.

Claims 2-24 depend on claim 1 and are allowable and further because of specific features contained therein which, when taken alone and/or in combination with those of claim 1, are not disclosed or suggested in the prior art.

Thus, claim 2 recites that the second magnetization direction of the second sections of the base body is defined by a magnetic reflux of

magnetization of the first section of the base body. This is not disclosed in Spies.

In Spies, the direction of the magnetic flux is determined by the arrangement of the permanent magnet (8). The scale (2) changes the flux produced by the permanent magnet (8), but does not define any magnetization direction by itself.

Further, claims 6 and 7 both refer to difference in coercive field strengths of the first and second sections of the base body.

In Spies, the base body (scale 2), being not permanently magnetized, would not have sections with different coercive field strengths.

Claims 25-26 relate to a position measuring system that includes the measuring graduation of claim 1, and are allowable for the same reasons claim 1 is allowable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance, and allowance of the application is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place the case in condition for final allowance, it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

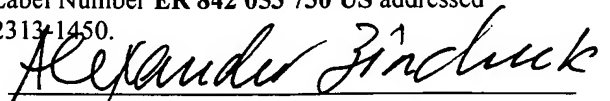


Alexander Zinchuk

Reg. No. 30,541

Dated: December 7, 2005
Abelman, Frayne & Schwab
666 Third Avenue, 10th Floor
New York, NY 10017-5621
212-885-9383

This correspondence is being deposited with the United States Postal Service on December 7, 2005 in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number **ER 842 053 730** US addressed to the Honorable Commissioner for Patents, Alexandria, VA 22313-1450.



Alexander Zinchuk